

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL E. DIAZ,

Plaintiff, No. CIV S-04-2375 MCE JFM P

vs.

STATE OF CALIFORNIA, et al.,

Defendants. ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order filed September 20, 2005, plaintiff's amended complaint was dismissed and plaintiff was given thirty days to file a second amended complaint. On October 21, 2005, plaintiff filed a request for an extension of time until December 15, 2005 to file the second amended complaint. Good cause appearing, plaintiff's request will be granted.<sup>1</sup>

On the same day, plaintiff filed a document styled "Motion for Emergency TRO and Injunction." As plaintiff was advised in this court's September 20, 2005 and October 24, 2005, orders, the court will not entertain any motion for injunctive relief unless and until plaintiff

<sup>1</sup> On October 20, 2005, plaintiff alleging that he has been placed in administrative segregation in retaliation for this lawsuit and seeking an order requiring prison officials to immediately release him from administrative segregation. Plaintiff contends that in the absence of the requested order he will be unable to timely file a second amended complaint. Plaintiff has not exhausted administrative remedies with respect to this claim, see 42 U.S.C. § 1997e, and it is therefore not properly before the court. Plaintiff's request will be denied.

1 has filed a proper complaint on which this action can proceed. Plaintiff's motion will be  
2 denied without prejudice.

3 IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's October 20, 2005 request for court-ordered release from  
5 administrative segregation is denied.  
6 2. Plaintiff's October 21, 2005 request for an extension of time is granted;  
7 3. Plaintiff is granted until December 15, 2005 in which to file a second amended  
8 complaint; and  
9 4. Plaintiff's October 21, 2005 motion for injunctive relief is denied without  
10 prejudice.

11 DATED: October 25, 2005.

12   
13 ~~John F. Marullo~~  
14 UNITED STATES MAGISTRATE JUDGE

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